

Draft 8th Update Language
Permit Process, Measurement, Parking, Green Building, and PDO Amendments
February 6, 2013

Issue #1: Noise Abatement

§59.5.0202 Duties and Responsibilities of the Administrator Noise Abatement

- (a) [No change.]
- (b) The Administrator is expressly charged:
 - (1) through (2) [No change.]
 - (3) To ~~grant or issue variances, permits, notices, or other matters required under the provisions of this article as~~ **allow exceptions to the requirements of this article, subject to conditions, when there are practical difficulties or unnecessary hardship involved in implementing this article if the exception** will not be contrary to **the purpose and intent of this article** or detrimental to the public health, safety, and general welfare of the citizens of the City of San Diego, ~~when, due to special conditions, strict and literal interpretation and enforcement of the provisions of this article would result in unusual difficulties or unnecessary hardship or be inconsistent with the general purposes of this article. In granting any such variance or permit, the Administrator shall hold hearings and may impose such conditions as he deems necessary or desirable to protect the public health, safety, and general welfare in accordance with this article.~~
- (4) [No change]

~~The requirement for a public hearing prior to issuing a permit or variance may be waived by the Administrator where a single social event is scheduled to occur between the hours of 7:00 a.m. and 11:00 p.m. and does not involve more than 200 persons or where a Special Event Permit is issued pursuant to Chapter II, Article 2, Division 40 of this Code by the City Manager.~~

Delete Sections 59.5.0203 Issuance of Permits or Variances, 59.5.0204 Appeals, 59.5.0206 Map

Issue #2: Decision Process for Land Development Code Amendments

§111.0106 Land Development Manual

- (a) The City may establish and adopt submittal requirements, review procedures, and standards and guidelines for *development* to supplement ~~to~~ the Land Development Code. These support documents shall be known collectively as the Land Development Manual.
- (b) [No change in text.]

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(1) [No change in text.]

(2) Major amendments to the Land Development Manual shall be approved ~~in accordance with Process Five~~ by the City Council. Major amendments shall include the creation or elimination of a chapter or chapters, or the significant revision of a chapter or chapters that exceeds the requirements to qualify as a minor amendment as provided in Section 111.0106(b)(1).

(c) [No change in text.]

§111.0107 Process for Amending the Land Development Code

(a) Amendments to the Land Development Code shall be processed as follows:

(1) Amendments to the Land Development Code that involve zoning regulations, as defined in California Government Code section 65850, shall be decided by the City Council after a hearing held by the Planning Commission to consider whether to recommend approval, conditional approval, or denial.

(A) If the Planning Commission does not make a recommendation within 60 calendar days of the initial Planning Commission hearing, the City Council may take action without a Planning Commission recommendation.

(B) Notice of the Planning Commission and City Council hearings shall be provided in accordance with Sections 112.0305 and 112.0307 as applicable.

(2) Amendments to the Land Development Code that do not involve zoning regulations as defined in California Government Code Section 65850 shall be decided by the City Council.

(b) An application for an amendment to the Land Development Code shall identify how the proposed amendment accomplishes at least one of the following goals:

(1) Simplify land development regulations;

(2) Clarify language or concepts within land development regulations;

(3) Make the land development regulations more objective;

(4) Make the code more adaptable to changes in technology or innovative techniques;

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(5) Eliminate redundancy and contradictions in the land development regulations;

(6) Maintain a standardized land development regulation framework; and

(7) Increase predictability in the application of land development regulations.

§112.0305 Notice for Land Use Plans or Zoning Ordinances

When a *land use plan*, a zoning ordinance, or a rezoning ordinance is to be considered at a public hearing, the City Manager shall submit a Notice of Public Hearing for publication as set forth in Section 112.0303 to be published at least 10 *business days* before the date of the public hearing. The Notice of Public Hearing shall include the date, time, and place of the hearing, the identity of the hearing body, a general explanation of the matter to be considered, and a general description of the location of the real property, if any, that is the subject of the hearing. This notice shall be provided in addition to the other notices required by this division.

§112.0307 Notice for Local Coastal Programs and Implementing Ordinances

(a)–(b) [No change.]

(c) Notice of availability of a *Local Coastal Program* amendment shall be provided in accordance with Section 112.0301(d).

Issue #3: Remove Provision for Waiver of Use Permit Fees for Non-Profit Organizations

§112.0203 Waiver of Fees or Deposits

(a) Appeal fees are waived for community planning groups officially recognized under City Council Policy 600-24.

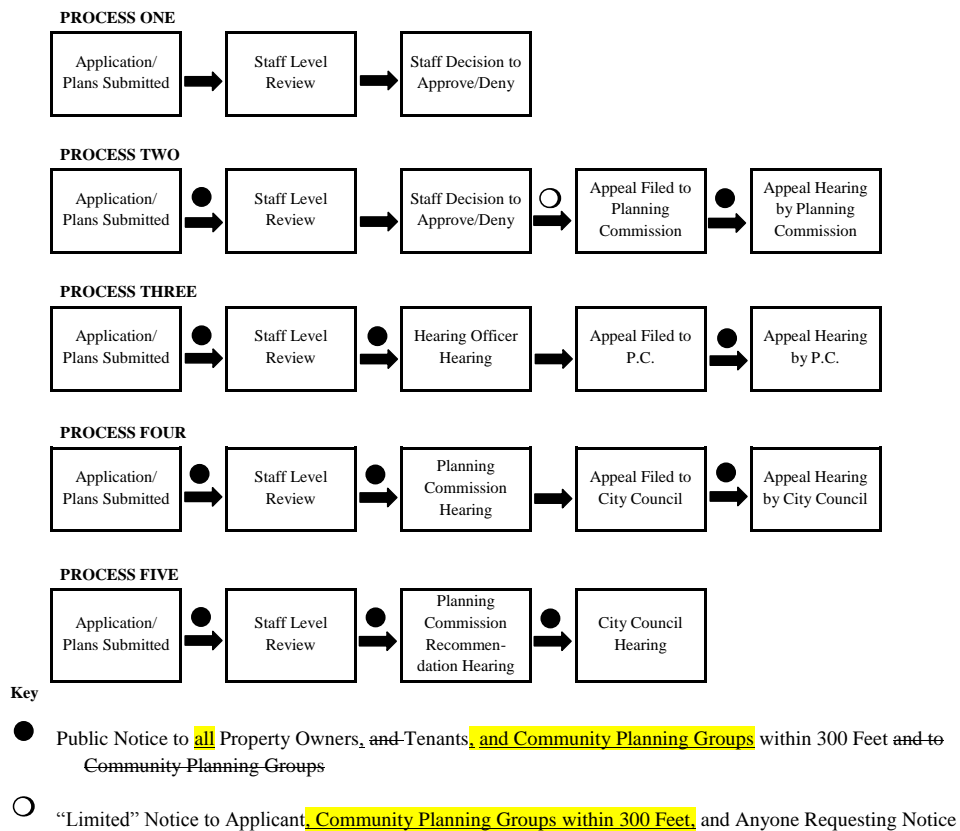
~~(b) Processing fees or deposits for Conditional Use Permits and Neighborhood Development Permits are waived for nonprofit institutions or organizations whose primary purpose is the promotion of public health and welfare and who have qualified for federal tax benefits. This waiver does not apply to institutions or organizations in circumstances in which the City is precluded by the California Constitution from making a gift of City funds.~~ (e) If the City Manager determines that project delays have been caused solely by the actions of City agencies, the City Manager may, under the authority granted by the City Council, waive any portion of the fees or deposits.

Issue #4: Notice to Planning Groups for Process Two Decisions

§112.0501 Overview of Decision Process

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Diagram 112-05A
Decision Processes with Notices



Issue #5: Regulations for Process Two Appeals Decided by City Council

§112.0504 Process Two Appeal Hearing

- (a) The Planning Commission shall hear appeals of Process Two decisions subject to the following requirements, unless otherwise specified in the Land Development Code.

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- ~~(a)~~(1) Persons Who Can Appeal. The following persons may request an appeal hearing after the designated staff person's decision:
- ~~(1)~~(A) An *applicant*; or
 - ~~(2)~~(B) Any other person who files an application for a Process Two appeal hearing in accordance with Section 112.0504~~(b)~~(a)(2).
- ~~(b)~~(2) Request for a Process Two Appeal Hearing. A Process Two decision may be appealed by filing an application for a Process Two appeal hearing with the City Manager no later than 12 *business days* after the *decision date*. **If an *applicant* appeals the denial of an Extension of Time for a map waiver or tentative map in accordance with Sections 125.0124 and 125.0461, the decision may be appealed no later than 15 calendar days after the *decision date* in accordance with Subdivision Map Act section 66452.6(e).**
- ~~(c)~~(3) Grounds for Appeal. A Process Two decision may be appealed on any of the following grounds:
- ~~(1)~~(A) Factual Error. The statements or evidence relied upon by the decision maker when approving, conditionally approving, or denying a permit, map, or other matter were inaccurate;
 - ~~(2)~~(B) New Information. New information is available to the *applicant* or the *interested person* that was not available through reasonable efforts or due diligence at the time of the decision;
 - ~~(3)~~(C) *Findings* Not Supported. The decision maker's stated *findings* to approve, conditionally approve, or deny the permit, map, or other matter are not supported by the information provided to the decision maker; or
 - ~~(4)~~(D) Conflicts. The decision to approve, conditionally approve, or deny the permit is in conflict with a *land use plan*, a City Council policy, or the Municipal Code.
- ~~(d)~~(4) Scheduling an Appeal Hearing. The City Manager shall assign a date for an appeal hearing before the Planning Commission no later than 10 calendar days after the date on which an application for the appeal hearing is filed with the City Manager. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing. The appeal hearing shall be noticed in accordance with Section 112.0308.
- ~~(e)~~(5) Power to Act on the Decision at Appeal Hearing. At the conclusion of the appeal hearing, the Planning Commission may affirm, reverse, or modify the staff decision.

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- (b) Exception. Where the Land Development Code specifies that the City Council is the appeal body for a Process Two decision, Sections 112.0504(a)(4)-(5) shall not apply. Instead, the scheduling of the appeal hearing and the power to act on the decision at the appeal hearing shall be in accordance with Sections 112.0508(d)-(e).

Issue #6: Administrative Flexibility to Meet Regulatory Intent- Alternative Compliance

§113.0103 Definitions

Substantial improvement for the purposes of Sections 129.0104(c) and 143.0146 means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which, equals or exceeds 50 percent of the *market value* of the structure before the start of construction of the improvement.

§129.0104 Construction Permit Authorities

(a) through (b) [No change.]

- (c) The powers and duties of the Development Services Director or a designee with respect to construction permits are as follows:
- (1) To administer and enforce the applicable provisions of the Land Development Code and Municipal Code;
 - (2) To review applications for construction permits including plans, specifications, and other data to determine if an application is in compliance with the Municipal Code and adopted City zoning standards.
 - (3) To make interpretations of the applicable provisions of the Land Development Code in conformance with the purpose and intent of the Land Development Code.
 - (4) To adopt policies reasonably necessary to clarify the application of development regulations in conformity with the purpose and intent of the Land Development Code.
 - (5) To grant minor modifications for a single dwelling unit development in cases when there are practical difficulties involved in carrying out the applicable development regulations of the Land Development Code if the Development Services Director determines:
 - (A) That strict application of the Land Development Code is impractical;

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- (B) That the minor modification is in conformance with the purpose and intent of the Municipal Code and adopted *land use plans*, and where applicable, is adequate to carry out the provisions of the certified *land use plan* for *coastal development*;
- (C) That the minor modification does not lessen any fire protection or public safety requirements; and
- (D) That the minor modification does not involve a *substantial improvement*.
- (E) The details of any action granting a minor modification shall be documented in writing in the project file.

Issue #7: Decision Process for Land Use Plans

§122.0105 Decision Process for Land Use Plans

- (a) A request for a *land use plan* or an amendment to a *land use plan* requires initiation in accordance with the General Plan Land Use Element.
- (b) A Once initiated in accordance with Section 122.0105(a), a decision on a *land use plan* or an amendment to a *land use plan* shall be ~~made~~ processed in accordance with Process Five.
- ~~(a)(c)~~ (c) The City Council may make a minor change to a proposed *land use plan* during the public hearing.
- ~~(b)(d)~~ (d) The City Council shall refer any material change to a proposed *land use plan* to the Planning Commission for its recommendation. The failure of the Planning Commission to provide a recommendation on the material change within 45 calendar days of the date of the conclusion of the Commission hearing shall be deemed a recommendation for approval.

§122.0107 ~~Adoption and Amendment~~ Required Contents of Specific Plans

- (a) Specific plans adopted on or after January 1, 2000 shall be prepared pursuant to the California Government Code ~~and shall be processed in accordance with the *land use plan* initiation criteria and the decision process described in this division.~~
- (b) [No change in text.]

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- (c) ~~A specific plan shall be adopted by a resolution of the City Council.~~ (d) Zoning or rezoning to implement the specific plan shall be adopted by ordinance of the City Council.

Issue #8: Process for Commercial and Industrial Condominium Projects

§125.0120 When a Map Waiver May Be Requested

A *subdivider* may request a waiver of *tentative map*, *parcel map*, or final map requirements as provided by the *Subdivision Map Act*, Sections 66428 and 66428.1 for any of the following:

- (a) [No change.]
- (b) Condominium Projects.
- (1) [No change in text.]
- (2) The Subdivider may request a waiver of the requirement to file a tentative map and parcel map for a condominium conversion project creating four or fewer condominium units: or
- (3) The Subdivider may request a waiver of the requirement to file a tentative map and parcel map for a new commercial or industrial condominium project, or for conversion of existing development to commercial or industrial condominiums.
- (c) [No change.]

Issue #9: Appeal Process for Extension of Time Requests

§125.0124 Extension of Time for a Map Waiver

The expiration date of a Map Waiver may be extended as follows:

- (a) through (b) [No change.]
- (c) Decision Process. An application for Extension of Time for a Map Waiver shall be acted upon in accordance with Process Two, except that it shall be appealable in accordance with Section 125.0124(f).
- (1) through (2) [No change.]
- (d) through (e) [No change.]

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- (f) Appeals. The City Council shall hear appeals of decisions on Extensions of Time for Map Waivers.

§125.0461 Extension of Time for a Tentative Map

The expiration date of a *tentative map* may be extended as follows:

- (a) The expiration date of a *tentative map* may be extended one or more times if the extensions do not exceed a total of 72 months in accordance with the *Subdivision Map Act*. This timeframe does not include any legislative extensions enacted pursuant to state law.
- (1) [No change.]
- (2) Decision Process. An application for Extension of Time for a *tentative map* shall be acted upon in accordance with Process Two, except that it shall be appealable in accordance with Section 125.0461(c).
- (A) through (B) [No change.]
- (3) through (4) [No change.]
- (b) [No change.]
- (c) Appeals. The City Council shall hear appeals of decisions on Extensions of Time for tentative maps.

§126.0111 Extension of Time of a Development Permit

- (a) through (c) [No change.]
- (d) Decision Process. A decision on an application for an extension of time of a *development permit* shall be made in accordance with ~~the same process required for a new application for the same development permit~~ Process Two, except that it shall be appealable in accordance with Section 126.0111(i).
- (e) through (h) [No change.]
- (i) Appeals. The City Council shall hear appeals of decisions on Extensions of Time for development permits.

Issue #10: Easement Vacations

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Division 10: Easement ~~Abandonments~~ **Vacations**

§125.1001 Purpose of Easement Vacation Procedures

The purpose of these procedures is to establish the process and criteria to approve the vacation of ~~to vacate~~ *public service easements* and other easements granted to the public or the City of San Diego, ~~and to supplement the provisions of~~ This division establishes an alternative process to ~~vacate public service easements as provided for by~~ California Streets and Highways Code Section 8311 ~~Sections 8300 through 8363, and to distinguish this alternative decision process~~ from the process that applies by law to vacation of other easements and to the vacation of public ~~service easements with a tentative map in accordance with the Subdivision Map Act.~~

§125.1010 When an Easement Vacation May Be ~~Initiated~~ **Requested**

- (a) The vacation of a *public service easement* or other easement may be ~~initiated by~~ resolution of the City Council or by petition or request by any person pursuant to the California Streets and Highway Code. requested by application in accordance with one of the following:
- (1) A request to vacate a public service easement in accordance with local adopted procedures in Section 125.1030(b) as an alternative to the procedures set forth for the vacation of public service easements in the California Streets and Highways Code Section 8311;
 - (2) A request to vacate a public service easement in conjunction with a tentative map application and the procedures for the vacation of public streets and easements on final maps and parcel maps pursuant to Subdivision Map Act Sections 66434(g), 66445(j), 66499.20 1/4 or 66499.20 1/2 and as set forth in Section 125.1030(a); or
 - (3) A request to vacate any other type of easement as set forth in Section 125.1030(a).
- (b) The City Council may also approve the vacation of a public service easement or other easement by resolution.
- ~~(b) A public service easement or other easement may also be vacated by filing a tentative map and a parcel map or final map pursuant to the Subdivision Map Act Sections 66434(g), 66445(j), 66499.20 1/4 or 66499.20 1/2, and in accordance with the provisions of this article.~~
- ~~(c) A public service easement or other easement may be summarily vacated if it does not contain public utility facilities or does not contain active public utility facilities that would be affected by the vacation and if any one of the following applies:~~

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- (1) ~~The easement has not been used for the purpose for which it was dedicated or acquired for 5 consecutive years immediately preceding the proposed vacation;~~
- (2) ~~The date of *dedication* or acquisition is less than 5 years and more than 1 year immediately preceding the proposed vacation, and the easement has not been used continuously since the date of *dedication*; or~~
- (3) ~~The easement has been superseded by relocation or determined to be excess by the easement holder, and there are no other public facilities located within the easement.~~

§125.1030 Decision Process for an Easement Vacation

- (a) A decision on an application to vacate a *public service easement* requested in accordance with Section 125.1010(a)(2) or to vacate any other type of easement requested in accordance with Section 125.1010(a)(3) shall be made by the City Council in accordance with Process Five, with the following exceptions to Process Five procedures except that a recommendation by the Planning Commission is not required.
- (b) A decision on an application to vacate a *public service easement* requested in accordance with Section 125.1010(a)(1) shall be made in accordance with Process Two, except that the decision shall be appealable directly to the City Council.
 - (1) This process is intended to provide an alternative to other procedures provided by law for the vacation of *public service easements*.
 - (2) Once a *public service easement* vacation has been approved in accordance with this Section and all appeal rights have been exhausted, the City Engineer shall execute a quitclaim deed conveying the City's right, title and interest in the unused *public service easement* to the property owner.
- (b) ~~The Notice of Public Hearing required by Section 112.0301(c) shall be distributed 14 calendar days before the date of the public hearing, and shall be published in a newspaper of general daily circulation for at least two successive weeks prior to the hearing in accordance with California Streets and Highways Code Section 8322. The Notice of Public Hearing shall be posted in accordance with California Streets and Highways Code Section 8323. Where the vacation of a *public service easement* occurs in conjunction with an application for a *tentative map*, notice in accordance with this section shall not be required.~~
- (e) ~~A summary vacation of a *public service easement* or other easement pursuant to Section 125.1010(e) does not require a recommendation by the Planning Commission.~~

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§125.1040 Findings for a Public Service Easement and Other Easement Vacations

[No change in text.]

Issue #11: Payment of Required Fees Prior to Recordation of a Development Permit

§126.0106 Recordation of a Development Permit

(a) through (b) [No change in text.]

- (c) The City will forward the permit and the resolution approving the permit to the County Recorder for recordation provided that the applicant has paid all required fees and costs in accordance with Section 112.0202.
- (d) Before the City forwards the permit for recordation, the *applicant* may submit a request in writing to the City Manager that the City obtain a certified copy of the permit from the County Recorder. The *applicant* shall pay the fees to obtain the certified copy.

Issue #12: Cancellation of a Development Permit

§126.0110 Cancellation of a Development Permit

- (a) An owner or permittee may request cancellation of a *development permit* at any time before initial utilization of the permit. The owner or permittee shall submit the request for cancellation in writing to the City Manager. ~~The development permit shall not be canceled less than 120 calendar days after the request is received by the City Manager.~~ The City shall forward a written declaration of the cancellation to the County Recorder for recordation in accordance with Section 126.0106. The *development permit* shall be void on the date that the declaration of cancellation is recorded with the County Recorder. The City shall mail a copy of the declaration of cancellation to the owner and permittee.
- (b) [No change.]

Issue #13: Sidewalk Cafes

§126.0203 When a Neighborhood Use Permit Is Required

- (a) An application for the following uses in certain zones may require a Neighborhood Use Permit. To determine whether a Neighborhood Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13.

[No change Automobile service stations through Revolving projecting signs]

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Sidewalk cafes that deviate from the requirements of Section 141.0621(a)
[No change Signs with automatic changing copy through Wireless communication facilities]

(b) [No change.]

§129.0203 Exemptions from a Building Permit

(a) A Building Permit is not required for the following *structures* and activities.

(1) through (24) [No changes.]

(25) A sidewalk cafe in accordance with Section 141.0621 unless any one of the following applies:

(A) The sidewalk cafe would alter or modify the existing building, building façade, or any means of building egress;

(B) The sidewalk cafe would be located on a raised platform or in a sunken area; or

(C) A barrier consisting of railings, fences, or planter boxes would be installed to delineate the area of the sidewalk cafe.

(b) through (e) [No change.]

§129.0702 When a Public Right-of-Way Permit Is Required

(a) [See Issue #17 Public Service Easements]

(b) The City ~~Manager~~ Engineer may:

(1) Require a building permit for private structures encroaching in the public right-of-way in addition to, or in place of, a Public Right of-Way Permit; or

(2) waive Waive the requirement for a Public Right-of-Way Permit as provided in the Land Development Manual.

§129.0750 Expiration of a Public Right-of-Way Permit

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- (a) A Public Right-of-Way Permit shall expire by limitation and become void 24 months after the date of permit issuance, unless an exception is granted in one of the following ways:

(1) through (3) [No change.]

(4) A Public Right-of-Way Permit issued for a sidewalk café in accordance with Section 141.0621 shall expire in accordance with the Public Right-of-Way Permit.

(b) [No change.]

§131.0522 Use Regulations Table of Commercial Zones

Table 131-05B
Use Regulations Table for Commercial Zones

Use Categories/Subcategories	Zone Designator	Zones									
	1st & 2nd >>	CN ⁽¹⁾ -			CR-		CO-		CV-		CP-
	3rd >>	1-			1-	2-	1-		1-	2-	1-
	4th >>	1	2	3	1	1	1	2	1	2	1
Commercial Services											
Separately Regulated Commercial Services Uses											
Sidewalk Cafes		N-L			N-L		N-L		N-L		-

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																			
	1st & 2nd >>	CC-																			
	3rd >>	1-			2-			3-			4-				5-						
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5		
Commercial Services																					

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Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																			
	1st & 2nd >>	CC-																			
	3rd >>	1-	2-	3-	4-	5-															
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5		
Separately Regulated Commercial Services Uses																					
Sidewalk Cafes		N-L	N-L	N-L	N-L	N-L															

Footnotes to Table 131-05B [No change]

§141.0621 Sidewalk Cafes

Sidewalk cafes are outdoor dining spaces located in the *public right-of-way* that are associated with adjacent eating and drinking establishments. Sidewalk cafes are permitted as a limited use in the zones indicated with an “L” may be permitted with a Neighborhood Use Permit in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the provisions of this section the following regulations. It is not the intent of this section to regulate outdoor eating and drinking establishment areas that are located on private property.

- (a) — The decision maker will evaluate the following to determine if a sidewalk cafe is a suitable use for the proposed site and will not infringe on the use of the *public right of way* by pedestrians:
 - (1) — The width of the sidewalk;
 - (2) — The design and relationship of the cafe to other existing or planned uses in the vicinity;
 - (3) — The amount of pedestrian use and the impact of the cafe’s location on pedestrian activity; and
 - (4) — The ability of the cafe to fit the character of the area, create an outdoor pedestrian plaza, intensify pedestrian activity, and make the *street* activity more attractive.

(b)(a) **Limited Use Regulations**

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(1) **Design requirements**

(A) ~~A sidewalk cafe may~~ **shall** be located ~~within the public right-of-way only in conjunction with, and adjacent to,~~ a street-level eating ~~or~~ **and** drinking establishment.

(e) ~~A sidewalk cafe shall be used only for dining, drinking, and circulation. The cafe may provide either waiter/waitress service or self-service.~~

(B) **A sidewalk cafe that provides a maximum of one row of tables and chairs within 4 feet 6 inches of the building façade, placed in a manner that does not block ingress or egress from the associated eating and drinking establishment, shall not be required to install a barrier in accordance with Section 141.0621(a)(1)(C).**

~~(d)(C)~~ **If not designed in compliance with Section 141.0621(a)(1)(B),** ~~The the~~ area of ~~the a~~ sidewalk cafe shall be delineated by a barrier consisting of railings, *fences*, or a combination of railings and *fences*, and planter boxes that are 3 feet in height or less; ~~solid~~ **Solid** walls are not permitted.

(i) The barrier may be either permanently installed or moveable; ~~if~~ **If** it is moveable, it shall be affixed to the sidewalk while the **sidewalk** cafe is open for business.

(ii) A clear, transparent, shatterproof glass or similar material may be used on top of the 3-foot barrier to enclose the **sidewalk** cafe to minimize windy or cold climatic conditions. ~~The enclosure must meet the following requirements.~~ (1) The height of the sidewalk cafe barrier plus the clear enclosure shall not exceed 5 feet.

(iii) ~~If an enclosure is used, awnings~~ **Awnings or umbrellas may be used in conjunction with a sidewalk cafe, but** shall not be used as a ~~cafe~~

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~~covering~~ permanent roof or shelter over the sidewalk cafe area.

(D) **Clear Path of Travel**

- ~~(e)~~(i) A clear path, free of all obstructions to the flow of pedestrian traffic, shall be provided in the *public right-of-way* and shall be maintained at all times. Obstructions include traffic signals or *signs*, light standards, parking meters, phone booths, bus stops, trash receptacles, benches, trees, gates that open outward beyond the perimeter of the sidewalk cafe, and similar objects.
- (ii) The clear path shall be a paved sidewalk that is at least 5 feet wide, unless a greater width is required by the adopted *land use plan* or applicable zone.
- (iii) The clear path may meander from side to side to avoid obstructions, but shall maintain a continuous, common surface at least 3 feet in width that provides a direct path of travel past the sidewalk cafe.
- (iv) ~~The clear path shall be measured in the following manner:~~(1) The clear path shall be measured from the outermost point of the sidewalk cafe to the curb or to the nearest obstruction within the flow of pedestrian traffic, whichever is shorter.
- ~~(2)~~(v) Recesses in the *building facade* shall not be used to satisfy the clear path requirement; ~~and~~.
- ~~(3)~~ The decision maker may grant an exception to the minimum clear path width if pedestrian volumes and existing *street* conditions are such that no congestion would result.

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- ~~(E)~~ **Accessibility.** ~~The A~~ sidewalk cafe shall be designed and operated so that unsafe conditions are not created for the physically disabled, blind, or partially sighted. ~~Gates or other objects placed within a sidewalk café shall not swing or project beyond the delineated perimeter of the café. Cantilevered projections are not permitted. A change in paving pattern and texture may be required to alert pedestrians of a change in sidewalk use.~~
- ~~(i)~~ **The surface of a sidewalk cafe shall be level, and have a running slope and a cross slope that do not exceed 2 percent (1 unit vertical in 50 units horizontal).**
 - ~~(ii)~~ **A sidewalk cafe shall not be located on a raised platform or in a sunken area, unless an accessible ramp is provided in accordance with the California Building Code.**
 - ~~(iii)~~ **At least one wheelchair seating space shall be provided for each 20 seats, or portion thereof.**
 - ~~(iv)~~ **When multiple accessible seating spaces are provided, they shall be reasonably distributed and integrated within the area of the sidewalk cafe.**
 - ~~(v)~~ **Accessible wheelchair spaces shall have a minimum unobstructed maneuverability dimension of 30 inches in width by 48 inches in depth.**
 - ~~(vi)~~ **Access to designated wheelchair spaces shall be provided via an accessible path with not less than 36 inches unobstructed width.**
- ~~(F)~~ **An unobstructed path of ingress and egress travel with a minimum 4-foot width that leads occupants directly from exit doors to the public right-of-way shall be required for a sidewalk cafe and associated eating and drinking establishment.**

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- ~~(g)~~(G) No portion of a sidewalk cafe may be located within 8 feet of the entrance to a ground *floor* commercial use other than the entrance to the adjacent restaurant. unless the property owners and first floor tenants of the affected commercial lease spaces provide a notarized letter of permission. ~~An exception to the minimum distance between sidewalk cafes and adjacent business entrances may be granted by the decision maker after a review of existing conditions in the surrounding commercial area and on the *street* adjacent to the sidewalk cafe if the affected, adjacent property owners and first *floor* tenants give notarized, written permission for the encroachment. The decision maker's review will take into consideration the effect that the exception may have on adjoining businesses in terms of visibility and access.~~
- ~~(h)~~(H) ~~Awnings~~ If awnings are attached shall be secured to the main building, they shall be secured in accordance with the California Building Code and shall be subject to inspection by the Building Official prior to occupancy of a sidewalk cafe.
- ~~(i)~~(I) The ~~furnishings of the interior of a sidewalk cafe shall consist solely of moveable~~ furnishings, including moveable tables, ~~moveable~~ chairs, and ~~moveable~~ umbrellas.
- (J) Landscaping may be placed in moveable planters or planted in the ground inside the a delineated sidewalk cafe area adjacent to the barrier.
- (K) Lighting fixtures may be permanently affixed to the front of the ~~main building~~ associated eating and drinking establishment.
- ~~(j)~~(L) The name and type of establishment may be placed on umbrellas or on the valance of an *awning*. Other *signs* are not permitted on the a sidewalk cafe.
- ~~(k)~~ ~~Trash or storage areas shall not be located on or adjacent to the public right of way.~~
- ~~(l)~~ ~~Musical instruments or sound reproduction devices shall not be operated or used within a sidewalk cafe. For purposes of enforcement of Municipal Code Section 59.5.0101 et. seq., the~~

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~~property line~~ shall be considered the boundary of the sidewalk cafe.

- ~~(m)~~ Sidewalk cafes shall be free of litter at all times.
- ~~(n)~~ The hours of operation of a sidewalk cafe shall be limited to the hours of operation of the associated eating or drinking establishment.
- ~~(o)~~ (M) Within the beach impact area of the Parking Impact Overlay Zone, sidewalk cafes shall not exceed 200 sq ft in area without providing parking. Required parking shall be provided at a ratio not less than one parking space for every additional 200 sq ft (or portion thereof) above the first 200 sq ft. Parking for a sidewalk cafe portion of an eating and drinking establishment shall only be required if:
 - (i) The area of a sidewalk cafe is greater than 200 square feet;
 - (ii) The area of a sidewalk cafe exceeds 25 percent of the combined total of the gross floor area of the associated eating and drinking establishment and the area of the sidewalk cafe; and
 - (iii) A sidewalk cafe is located in the Parking Impact Overlay Zone.
- (2) Permit requirements
 - (A) Prior to installation of any furniture or improvements in the public right-of-way and prior to operation of a sidewalk cafe, the applicant shall obtain a Public Right-of-Way Permit and/or Building Permit in accordance with Sections 129.0203 and 129.0702.
 - (B) An Encroachment Maintenance and Removal Agreement is required in accordance with Section 129.0715.
 - (i) The Encroachment Maintenance and Removal Agreement for a sidewalk cafe shall be valid upon issuance of a Public Right-of-Way Permit or

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building permit, as applicable, and shall expire after one year.

Comment [a3j1]: Should annual renewal and payment of flat fees (i.e. \$75 - \$150) be required for private use of sidewalk like other cities charge or should this limit of one year expiration be removed?

(ii) An Encroachment Maintenance and Removal Agreement for a sidewalk cafe shall be automatically renewed annually upon payment of applicable renewal fees, unless the City Manager determines that there is a violation of the terms, conditions, lawful requirements, or provisions of the associated *development permit, construction permit*, or the Encroachment Maintenance and Removal Agreement.

(C) The dimensions of a sidewalk cafe shall be delineated on a site plan and documented in the associated Public Right-of-Way Permit or building permit, as applicable.

(D) Prior to occupancy of a sidewalk cafe, inspection shall be required in accordance with Section 129.0111, as applicable.

(3) Operational requirements

(A) A sidewalk cafe shall only be used for dining, drinking, and circulation, and shall operate only in conjunction with an adjacent eating and drinking establishment.

(B) A sidewalk cafe may provide either waiter/waitress service or self-service.

(C) The sidewalk within, and adjacent to, the sidewalk cafe shall be clean and free of litter at all times.

(D) Trash or storage areas shall not be located on or adjacent to the *public right-of-way*.

(E) Musical instruments or sound reproduction devices shall not be operated or used within a sidewalk cafe. For purposes of enforcement of Municipal Code Chapter 5, Article 9.5, the property line shall be considered the boundary of a sidewalk cafe.

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- (F) The hours of operation of a sidewalk cafe shall be limited to the hours that the kitchen facilities of the associated eating and drinking establishment are open for meal ordering. No alcohol, food or beverages shall not be served or permitted within the sidewalk cafe after 10:00 p.m. Sunday through Thursday, and after 11:00 p.m. Friday through Saturday.
 - (G) Smoking shall not be permitted within the sidewalk cafe at any time.
 - (H) A sidewalk cafe shall comply with all State of California Department of Alcoholic Beverage Control license requirements as applicable.
 - (I) Outdoor cooking and preparation of food within the *public right-of-way* is prohibited.
 - (J) Portable heaters, if provided, shall be located a minimum of 4 feet away from the exterior face of the building and from any combustible materials, including architectural projections, or in accordance with manufacturer recommendations, whichever is most restrictive.
 - (K) A copy of the approved Public Right-of-Way Permit or building permit, as applicable, for a sidewalk cafe shall be posted on the *premises* of the associated eating and drinking establishment.
- (b) A Process Two Neighborhood Use Permit may be requested in accordance with Section 126.0203 to deviate from the requirements in Section 141.0621(a) as follows:
- (1) The *applicant* shall identify any requirement in Section 141.0621(a) where a deviation is being requested and shall specify why the deviation is needed.
 - (2) The decision maker will evaluate the request in accordance with the adopted *land use plan* and Land Development Manual to determine if a sidewalk cafe with the proposed deviation is a

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suitable use for the proposed site and will not infringe on pedestrian use of the *public right-of-way*. In making the determination, the decision maker shall consider the following:

- (A) The width of the sidewalk;
- (B) The design and relationship of the sidewalk cafe to other existing or planned uses in the vicinity;
- (C) The amount of pedestrian use and the impact of the sidewalk cafe's location on pedestrian activity; and
- (D) The ability of the sidewalk cafe to fit the character of the area, create an outdoor pedestrian plaza, intensify pedestrian activity, and make the *street* activity more attractive.

Issue #14: Lower Process for Wireless Communication Facility Equipment Enclosures

§126.0402 When a Neighborhood Development Permit Is Required

(a) through (l) [No change in text.]

- (m) A Neighborhood Development Permit is required for *development* of a *wireless communication facility* with an equipment enclosure that exceeds 250 square feet or that would not be placed underground as described in Sections 141.0420 (g)(3) and (i)(2).

§141.0420 Wireless Communication Facilities

[No change in text first paragraph.]

- (a) The following uses are exempt from the provisions of Section ~~140.0420~~ 141.0420:
- (b) through (f) [No change.]
- (g) Design Requirements

The following regulations apply to all *wireless communication facilities*:

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(1) through (2) [No change.]

- (3) The *wireless communication facility's* equipment shall be located within an existing building envelope, whenever possible. If a new equipment enclosure is necessary, it shall be of a height minimally necessary to accommodate the equipment, not to exceed 250 square feet, unless a Process Two Neighborhood Development Permit is granted in accordance with Section 126.0402.

(4) through (9) [No change.]

(h) [No change.]

(i) Park Site Installations

- ~~(1)~~—In addition to the design ~~guidelines~~ requirements set forth in Section 141.0420(g), the following design requirements apply to *wireless communication facilities* in city parks.

~~(A)(1)~~ [No change in text.]

~~(B)(2)~~ If the proposed *wireless communication facility* would be located on city-owned property that has been formally dedicated in perpetuity by ordinance for park, recreation, or cemetery purposes, ~~Equipment~~ ~~equipment~~ enclosures shall be placed underground; unless the Park and Recreation Director determines that an above-ground equipment enclosure would not violate Charter Section 55 and a Process Two Neighborhood Development Permit is granted in accordance with Section 126.0402.

~~(C)~~ ~~No above ground equipment enclosures for a *wireless communication facility* shall be placed on city-owned property, dedicated in perpetuity by ordinance, for park or recreation purposes, except where the *wireless communication facility* use would not violate City of San Diego Charter section 55.~~

Issue #15: Allowance for Limited Development Consistent with Previously Conforming Setbacks

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§127.0102 General Rules for Previously Conforming Premises and Uses

The following general rules apply to all *previously conforming premises* and uses:

(a) through (j) [No change.]

(k) Where *previously conforming development* provides a *setback* less than the current requirement, new *development* on the *premises* may be located in compliance with the *previously conforming setback* for up to 50 percent of the length of the *building envelope* on a *floor-by-floor* basis.

§131.0443 Setback Requirements in Residential Zones

(a) through (c) [No change.]

(d) Setbacks in RM-1-1, RM-1-2, RM-1-3 Zones

(1) through (2) [No change.]

(A) through (B) [No change.]

(C) ~~Where there is an existing *development* on the *premises* with the side *setback* less than the current requirement and the building is to be maintained, new *development* may observe the existing side *setback* for 50 percent of the length of the *building envelope* on a *floor-by-floor* basis.~~

(e) through (h) [No change.]

(i) New *development* on a *premises* with a *previously conforming setback* may be permitted to meet the existing *previously conforming setback* if consistent with Section 127.0102(k).

Issue #16: When a Building Permit is Required

§129.0202 When a Building Permit Is Required

(a) No *structure* regulated by the Land Development Code shall be erected, constructed, enlarged, altered, repaired, improved, converted, permanently relocated or partially

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demolished unless a ~~separate~~ Building Permit ~~for each structure~~ has first been obtained from the Building Official, except as exempted in Sections 129.0202(b) and 129.0203.

(b) [No change.]

Issue #17: Public Service Easement Encroachments

§129.0702 When a Public Right-of-Way Permit Is Required

- (a) A Public Right-of-Way Permit is required for the following unless otherwise exempt under Section 129.0703:
- (1) [No change]
 - (2) The construction of privately owned *structures, or* facilities, **or improvements** in the *public right-of-way* **or in a public service easement**;
 - (3) through (4) [No change.]
- (b) [No change]

§129.0715 Encroachment Maintenance and Removal Agreement

- (a) An Encroachment Maintenance and Removal Agreement is required for any privately owned facilities or *structures* in the *public right-of-way* **or in a public service easement** constructed and maintained by the property owner subject to the following:
- (1) through (4) [No change.]
 - (5) Whatever rights and obligations were acquired by the City with respect to the *rights-of-way* **or public service easement** shall remain and continue in full force and effect and shall in no way be affected by the City's grant of permission to construct and maintain the encroaching *structure*.
 - (6) through (10) [No change.]
 - (11) The property owner shall pay the City or public utility for all cost of relocating, replacing, or protecting a facility within the *public right-of-way* **or public service easement** when such relocation, replacement, or protection results from the construction of the *encroachment*.
 - (12) [No change.]

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§129.0720 Qualifications to Prepare Plans and Perform Construction Work in the Public Right-of-Way or Public Service Easement

The preparation of plans for, and the construction of, work regulated by this division shall only be performed by persons with the following qualifications:

(a) through (f) [No change.]

§129.0742 Commencement of Work Within a Public Right-of-Way or Public Service Easement

(a) The *applicant* shall not begin any work, construction, or use within the *public right-of-way* or public service easement that will be authorized by a Public Right-of-Way Permit until the required permit has been issued.

(b) [No change.]

Issue #18: Permit Process for Encroachments

§129.0710 How to Apply for a Public Right-of-Way Permit

An application for a Public Right-of-Way Permit shall be submitted in accordance with Sections 112.0102 and 129.0105. The submittal requirements for Public Right of-Way Permits are listed in the Land Development Manual. A *development permit* or other discretionary approval is required prior to issuance of a Public Right-of-Way Permit for the following:

(a) If the proposed *encroachment* involves construction of a privately owned *structure* or facility into the *public right-of-way* dedicated for a *street* or an *alley*, and where the *applicant* is the *record owner* of the underlying fee title, a Neighborhood Development Permit is required in accordance with Section 126.0402 (j) except for the following:

(1) through (7) [No change.]

(8) Encroachments for temporary shoring and tie-backs

(b) If the proposed *encroachment* is erected, placed, constructed, established or maintained in the *public right-of-way* when the applicant is not the *record owner* of the property on which the *encroachment* will be located, a Site Development Permit is required in accordance with Section 126.0502(d)(7), except for the following:

(1) *Encroachments* listed in Section 129.0710(a)(4) through ~~(7)~~ (8)

(2) through (4) [No change.]

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- (5) Encroachments where the applicant has the written permission of the record owner of the underlying fee title in a form to the satisfaction of the City Manager shall be processed in accordance with Section 129.0710(a).

(c) [No change.]

Issue #19: Additional Use Regulations for all Base Zones

§131.0220 Use Regulations of Open Space Zones

The regulations of Section 131.0222 apply in the open space zones ~~unless otherwise specifically provided by footnotes~~ where indicated in Table 131-02B.

- (a) The uses permitted in any open space zone may be further limited by the following:
- (1) ~~if the premises is located within~~ Use limitations applicable to the Airport Land Use Compatibility Overlay Zone (Chapter 13, Article 2, Division 15); ~~or~~
 - (2) ~~if~~ Presence of *environmentally sensitive lands* ~~are present~~, pursuant to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations); or
 - (3) Any other provision of the San Diego Municipal Code.
- ~~(a)~~(b) Within the open space zones no *structure* or improvement, or portion thereof, shall be constructed, established, or altered nor shall any *premises* be used or maintained except for one or more of the purposes or activities listed in Table 131-02B. It is unlawful to establish, maintain, or use any *premises* for any purpose or activity inconsistent with this section or Section 131.0222.
- ~~(b)~~(c) All uses or activities permitted in the open space zones shall be conducted entirely within an enclosed building unless the use or activity is traditionally conducted outdoors.
- ~~(e)~~(d) *Accessory uses* in the open space zones may be permitted in accordance with Section 131.0125.
- ~~(d)~~(e) Temporary uses may be permitted in the open space zones for a limited period of time with a Temporary Use Permit in accordance with Chapter 12, Article 3, Division 4 (Temporary Use Permit Procedures).
- ~~(e)~~(f) For any use that cannot be readily classified, the City Manager shall determine the appropriate use category and use subcategory pursuant to Section 131.0110.

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§131.0320 Use Regulations of Agricultural Zones

The regulations of Section 131.0322 apply in the agricultural zones ~~unless otherwise specifically provided by footnotes~~ **where** indicated in Table 131-03B.

(a) The uses permitted in any **agricultural** zone may be further limited **by the following:**

- (1) **Section 131.0323 (Additional Use Regulations of Agricultural Zones);**
- (2) ~~if the premises is located within~~ **Use limitations applicable to** the Airport Land Use Compatibility Overlay Zone (Chapter 13, Article 2, Division 15); ~~or~~
- (3) ~~if~~ **Presence of** *environmentally sensitive lands* ~~are present~~, pursuant to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations); **or**
- (4) **Any other provision of the San Diego Municipal Code.**

~~(a)(b)~~ Within the agricultural zones, no *structure* or improvement, or portion thereof, shall be constructed, established, or altered nor shall any *premises* be used or maintained except for one or more of the purposes or activities listed in Table 131-03B. It is unlawful to establish, maintain, or use any *premises* for any purpose or activity not listed in this section or Section 131.0322.

(b)(c) All uses or activities permitted in the agricultural zones shall be conducted entirely within an enclosed building unless the use or activity is traditionally conducted outdoors.

~~(e)(d)~~ *Accessory uses* in the agricultural zones may be permitted in accordance with Section 131.0125.

~~(d)(c)~~ Temporary uses may be permitted in the agricultural zones for a limited period of time with a Temporary Use Permit in accordance with Chapter 12, Article 3, Division 4.

~~(e)(f)~~ For any use that cannot be readily classified, the City Manager shall determine the appropriate use category and use subcategory pursuant to Section 131.0110.

§131.0323 Additional Use Regulations of Agricultural Zones

The ~~uses in this section are permitted within the agricultural zones as~~ **additional use regulations identified in this section are applicable to uses where** indicated **in Table 131-03B** ~~subject to the regulations listed.~~

(a) through (b) [No change.]

§131.0420 Use Regulations of Residential Zones

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The regulations of Section 131.0422 apply in the residential zones ~~unless otherwise specifically provided by footnotes~~ **where** indicated in Table 131-04B.

(a) The uses permitted in any **residential** zone may be further limited **by the following:**

(1) Section 131.0423 (Additional Use Regulations of Residential Zones);

(2) ~~if the premises is located within~~ Use limitations applicable to the Airport Land Use Compatibility Overlay Zone (Chapter 13, Article 2, Division 15); ~~or;~~

(3) ~~if Presence of environmentally sensitive lands are present,~~ pursuant to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations); **or**

(4) Any other provision of the San Diego Municipal Code.

~~(a)~~**(b)** Within the residential zones, no *structure* or improvement, or portion thereof, shall be constructed, established, or altered, nor shall any *premises* be used or maintained except for one or more of the purposes or activities listed in Table 131-04B. It is unlawful to establish, maintain, or use any *premises* for any purpose or activity not listed in this section or Section 131.0422.

~~(b)~~**(c)** All uses or activities permitted in the residential zones shall be conducted entirely within an enclosed building unless the use or activity is traditionally conducted outdoors.

~~(e)~~**(d)** *Accessory uses* in the residential zones may be permitted in accordance with Section 131.0125.

~~(d)~~**(e)** Temporary uses may be permitted in the residential zones for a limited period of time with a Temporary Use Permit in accordance with Chapter 12, Article 3, Division 4.

~~(e)~~**(f)** For any use that cannot be readily classified, the City Manager shall determine the appropriate use category and use subcategory pursuant to Section 131.0110.

§131.0423 Additional Use Regulations of Residential Zones

The following uses are permitted in the residential zones **additional use regulations identified in this section are applicable to uses where** indicated in Table 131-04B; ~~subject to the additional use regulations in this Section.~~

(a) through (b) [No change.]

§131.0520 Use Regulations of Commercial Zones

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The regulations of Section 131.0522 apply in the commercial zones ~~unless otherwise specifically provided by footnotes~~ **where** indicated in Table 131-05B.

- (a) The uses permitted in any **commercial** zone may be further limited **by the following:**
- (1) **Section 131.0540 (Maximum permitted residential density and other residential regulations);**
 - (2) ~~if the premises is located within~~ **Use limitations applicable to** the Airport Land Use Compatibility Overlay Zone (Chapter 13, Article 2, Division 15); ~~or~~
 - (3) ~~if Presence of environmentally sensitive lands are present,~~ pursuant to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations); **or**
 - (4) **Any other provision of the San Diego Municipal Code.**
- ~~(a)(b)~~ Within the commercial zones, no *structure* or improvement, or portion thereof, shall be constructed, established, or altered, nor shall any *premises* be used or maintained except for one or more of the purposes or activities listed in Table 131-05B. It is unlawful to establish, maintain, or use any *premises* for any purpose or activity not listed in this section or Section 131.0522.
- ~~(b)(c)~~ All uses or activities permitted in the commercial zones shall be conducted entirely within an enclosed building unless the use or activity is traditionally conducted outdoors.
- ~~(c)(d)~~ *Accessory uses* in the commercial zones may be permitted in accordance with Section 131.0125.
- ~~(d)(e)~~ Temporary uses may be permitted in the commercial zones for a limited period of time with a Temporary Use Permit in accordance with Chapter 12, Article 3, Division 4.
- ~~(e)(f)~~ For any use that cannot be readily classified, the City Manager shall determine the appropriate use category and use subcategory pursuant to Section 131.0110.

§131.0540 Maximum Permitted Residential Density and Other Residential Regulations

The following regulations apply to ~~all~~ residential *development* within commercial zones **where indicated in Table 131-04B:**

- (a) through (f) [No change.]

§131.0620 Use Regulations of Industrial Zones

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The regulations of Section 131.0622 apply in the industrial zones ~~unless otherwise specifically provided by footnotes~~ where indicated in Table 131-06B.

(a) The uses permitted in any industrial zone may be further limited by the following:

(1) Section 131.0623 (Additional Use Regulations of Industrial Zones):

(2) if the premises is located within Use limitations applicable to the Airport Land Use Compatibility Overlay Zone (Chapter 13, Article 2, Division 15);

(3) Use limitations applicable to Prime Industrial Lands identified in an adopted land use plan; or

(4) if Presence of environmentally sensitive lands are present, pursuant to Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations); or

(5) Any other provision of the San Diego Municipal Code.

~~(a)~~(b) Within the industrial zones, no *structure* or improvement, or portion thereof, shall be constructed, established, or altered, nor shall any *premises* be used or maintained except for one or more of the purposes or activities listed in Table 131-06B. It is unlawful to establish, maintain, or use any *premises* for any purpose or activity not listed in this section and Section 131.0622.

~~(b)~~(c) All uses or activities permitted in the industrial zones shall be conducted entirely within an enclosed building unless the use or activity is traditionally conducted outdoors.

~~(c)~~(d) *Accessory uses* in the industrial zones may be permitted in accordance with Section 131.0125.

~~(d)~~(e) Temporary uses may be permitted in the industrial zones for a limited period of time with a Temporary Use Permit in accordance with Chapter 12, Article 3, Division 4.

~~(e)~~(f) For any use that cannot be readily classified, the City Manager shall determine the appropriate use category and use subcategory pursuant to Section 131.0110.

§131.0623 Additional Use Regulations of Industrial Zones

The ~~uses~~ additional use regulations identified in this section are applicable to uses ~~permitted in the industrial zones where indicated in Table 131-06B subject to the following regulations.~~

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(a) through (h) [No change.]

Issue #20: Assembly Uses

Comment [a3j2]: PDO use tables may also need clean up with respect to differential regulations for church and similar assembly uses.

§131.0222 Use Regulations Table for Open Space Zones

Table 131-02B
Use Regulations Table of Open Space Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones					
	1st & 2nd >>	OP-		OC-		OR ⁽¹⁾ -	
	3rd >>	1-	2-	1-	1-	1-	1-
	4th >>	1	1	1	1	2	1
Institutional							
Separately Regulated Institutional Uses							
Churches & Places of Religious Assembly		P ⁽²⁾	-	-	-	-	-
Commercial Services							
Assembly & Entertainment		P ⁽²⁾	-	-	-	-	-
Separately Regulated Commercial Services Uses							
Private Clubs, Lodges and Fraternal Organizations		-	-	-	-	-	-
Privately Operated, Outdoor Recreation Facilities over 40,000 square feet in size ⁽³⁾		C ⁽²⁾	-	-	-	-	-

Comment [a3j3]: Add use category for Churches above separately regulated use category for all base zone use tables.

Comment [a3j4]: Reclassify as a non-separately regulated institutional use since amendments would make it "permitted" or "not permitted". Reorder in all use tables.

Footnotes for Table 131-02B

1 [No change]

2 This use is permitted only if consistent with an approved park general development plan or master plan and is subject to any requirements identified in the plan.

3 through 11 [No change]

§131.0422 Use Regulations Table for Residential Zones

Table 131-04B

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Use Regulations Table of Residential Zones

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones											
	1st & 2nd >>	RM-											
	3rd >>	1-			2-			3-			4-		5-
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12
Institutional													
Separately Regulated Institutional Uses													
Churches & Places of Religious Assembly		P			P			P			P		- P
Commercial Services													
Instructional Studios		P			P			P			P		P
Assembly & Entertainment		-			-			-			-		- P
Separately Regulated Commercial Services Uses													
Private Clubs, Lodges and Fraternal Organizations		-			-			-			-		P
Privately Operated, Outdoor Recreation Facilities over 40,000 square feet in size ⁽⁴⁾		-			-			-			-		-

Footnotes for Table 131-04B [No change]

§131.0522 Use Regulations Table of Commercial Zones

Table 131-05B

Use Regulations Table for Commercial Zones

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Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >>	CN ⁽¹⁾⁻			CR-		CO-		CV-		CP-
	3rd >>	1-			1-	2-	1-		1-		1-
	4th >>	1	2	3	1	1	1	2	1	2	1
Institutional											
Separately Regulated Institutional Uses											
<i>Churches & Places of Religious Assembly</i>											
E ⁽⁴⁰⁾ P ⁽¹⁰⁾ E P E P E P E ⁽⁴⁰⁾ P ⁽¹⁰⁾ -											
Commercial Services											
Assembly & Entertainment											
- P ⁽¹⁰⁾ P P - P P ⁽¹⁰⁾ -											
Separately Regulated Commercial Services Uses											
Private Clubs, Lodges and Fraternal Organizations											
E P ⁽¹⁰⁾ E P P P P ⁽¹⁰⁾ -											
Privately Operated, Outdoor Recreation Facilities over 40,000 Square Feet in Size ⁽⁹⁾											
- E P E P - C C -											

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																							
	1st & 2nd >>	CC-																							
	3rd >>	1-			2-			3-			4-			5-											
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5						
Institutional																									
Separately Regulated Institutional Uses																									
Churches & Places of Religious Assembly		E P			E P			E P			E P						E P								
Commercial Services																									
Assembly & Entertainment		P			P			P			P						P								

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Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																							
	1st & 2nd >>	CC-																							
	3rd >>	1-		2-		3-		4-					5-												
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	
Separately Regulated Commercial Services Uses																									
Private Clubs, Lodges and Fraternal Organizations		P	C P		P		P					P													
Privately Operated, Outdoor Recreation Facilities over 40,000 Square Feet in Size ⁽⁹⁾		C	C		- C		C					C													

Footnotes to Table 131-05B [No change]

§131.0622 Use Regulations Table for Industrial Zones

Table 131-06B
Use Regulations Table for Industrial Zones

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >	IP-		IL-			IH-		IS-		
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-		
	4th >>	1	1	1	1	1	1	1	1		
Institutional											
Separately Regulated Institutional Uses											
Churches & Places of Religious Assembly		-	€ ₁₆	-	€ ₁₆ ^(11, 16)	£ ₁₆ ⁽¹⁶⁾	-	-	€ ₁₆ ^(12, 16)		
Commercial Services											

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Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones							
	1st & 2nd >	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1
Assembly & Entertainment		-	-	-	P ^(11, 16)	P ⁽¹⁶⁾	-	-	P ^(12, 16)
Separately Regulated Commercial Services Uses									
Private Clubs, Lodges and Fraternal Organizations		-	C	C	C	C	C	C	C
Privately Operated, Outdoor Recreation Facilities over 40,000 square feet in size ⁽¹³⁾		C	C	C	C	C	C	C	C

Footnotes for Table 131-06B

1 through 15 [No change]

16 Instructional Studios, ~~and~~ Assembly and Entertainment facilities, **and Churches and Places of Religious Assembly** are not permitted on a *premises* that is identified as Prime Industrial Land in a *land use plan*.

~~§141.0404 — Churches and Places of Religious Assembly~~

~~Churches and places of religious assembly are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to Section 141.0404(a). Churches and places of religious assembly that do not comply with Section 141.0404(a) may be permitted with a Conditional Use Permit decided in accordance with Process Three subject to Section 141.0404(b). Churches and places of religious assembly may also be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to Section 141.0404(b).~~

~~(a) — Limited Use Regulations~~

~~(1) — Churches and places of religious assembly are not permitted:~~

~~(A) — within the MHPA;~~

Comment [a3j5]: Reflect strikeout of 141.0404 “Churches and Places of Religious Assembly” in the following sections:
141.0502(b)(1)(D) – alcohol
141.0601(b)(1)(C), and (b)(2) – adult entertainment
141.0702(a)(1)(A) – sex offender facilities
1510.0303(e) – SF zone

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- ~~(B) — within floodplains located in the Coastal Overlay Zone; or~~
- ~~(C) — on a premises that is identified as Prime Industrial Land in a land use plan.~~
- ~~(2) — Churches and places of religious assembly are permitted as a limited use in existing buildings only.~~
- ~~(3) — The gross floor area of the church or place of religious assembly shall not exceed 50 percent of the maximum gross floor area permitted for the premises.~~
- ~~(4) — The church or place of religious assembly shall not be the only use on the premises.~~
- ~~(b) — Conditional Use Permit Regulations~~
 - ~~(1) — Churches and places of religious assembly are not permitted:~~
 - ~~(A) — within the MHPA;~~
 - ~~(B) — within floodplains located in the Coastal Overlay Zone; or~~
 - ~~(C) — on a premises that is identified as Prime Industrial Land in a land use plan.~~
 - ~~(2) — The design of the structures shall incorporate a variety of architectural elements that help to diminish building bulk.~~
 - ~~(3) — Structures shall be placed on the site so that larger or high-activity buildings are placed away from adjacent property with smaller structures and lower levels of activity.~~
 - ~~(4) — Off street parking shall be located away from adjacent residential property.~~
 - ~~(5) — Conditions addressing the following issues may be imposed by the decision maker:~~
 - ~~(A) — Limitations on the intensity of additional uses, such as schools and child care facilities, as well as the facilities~~

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housing these activities, to a level that is commensurate with the size of the site, the levels of intensity of surrounding *development*, and the capacity of *streets* serving the facility; and

(B) ~~Limitations on the number of on-premises fund-raising or social activities to a specific number of occurrences each year.~~

Issue #21: Child Care Facilities in the Agricultural Zone/Coastal Overlay

§131.0322 Use Regulations Table for Agricultural Zones

Table 131-03B
Use Regulations Table of Agricultural Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
Commercial Services					
Separately Regulated Commercial Services Uses					
<i>Child Care Facilities:</i>					
Child Care Centers		-		C ⁽⁹⁾	
Large Family Child Care Homes		-		L ⁽⁹⁾	
Small Family Child Care Homes		-		L	

Comment [a3j6]: Remove Footnote 9 for these use categories. Footnote 9 states: This use is not allowed within the Coastal Overlay Zone.

Footnotes for Table 131-03B [No change.]

§141.0606 Child Care Facilities

(a) through (b) [No changes.]

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(c) Child Care Centers

Child care centers are permitted as a limited use in the zones indicated with an “L” and may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(1) through (8) [No change.]

~~(4)~~(9) Child care centers proposed to be located on public or private *school* sites are permitted as follows:

~~(1)~~(A) Child care centers proposed as an *accessory use* on the *premises* of a *school* are exempt from the provisions of this section. The child care center may be either school-operated or privately operated.

~~(2)~~(B) Child care centers proposed for location on private *school premises* in a zone where *schools* are a permitted use, are permitted as a limited use subject to the regulations of Section 141.0606(c).

~~(3)~~(C) Child care centers proposed for location on private *school premises* in a zone where *schools* are required to obtain a Conditional Use Permit shall also be required to obtain a Conditional Use Permit subject to the regulations in Section 141.0606(c).

(10) Within the Coastal Overlay Zone, a child care center shall be permitted only on previously developed sites that are not developed with open space or agricultural uses as identified in Section 131.0112.

Issue #22: Educational Facilities: K-12, Colleges/Universities, Vocational/Trade Schools

§131.0622 Use Regulations Table for Industrial Zones

The uses allowed in the industrial zones are shown in Table 131-06B.

Table 131-06B
Use Regulations Table for Industrial Zones

Use Categories/ Subcategories	Zone Designator	Zones			
		IP-	IL-	IH-	IS-
[See Section 131.0112 for an explanation and	1st & 2nd >				

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descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1
Open Space through Residential [No change]									
Institutional									
Separately Regulated Institutional Uses									
Airports through Correctional Placement Centers [No change]									
Educational Facilities:									
Kindergarten through Grade 12		-	C	-	C	C	-	-	C
Colleges / Universities		C	C	-	C	C	-	C	C
Vocational / Trade School		-	-	-	<u>P-L</u>	<u>P-L</u>	-	<u>P-L</u>	<u>P-L</u>
Energy Generation & Distribution Facilities through Wireless Communication [No change]									
Retail Sales through Signs [No change]									

Footnotes for Table 131-06B

1 through 15 [No change.]

16 See Issue #21 Public Assembly Uses§141.0407 Educational Facilities--Schools for Kindergarten to Grade 12, and Colleges/Universities, and Vocational/Trade Schools

Educational facilities are facilities that are designed or used to provide specialized training or education. This section distinguishes between kindergarten to grade 12 schools, colleges and universities, and vocational schools and trade schools. Educational facilities are permitted by right in zones indicated with a "P", as a limited use in the zones indicated with a "L", and may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) ~~Educational facilities are not permitted on a premises that is identified as Prime Industrial Land in a land use plan. Permanent development~~ associated with educational facilities is not permitted in agricultural zones

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in *Proposition A Lands* or within *floodplains* located in the Coastal Overlay Zone.

- (b) Schools for Kindergarten to Grade 12
- (1) This use category applies to schools that provide instruction to children enrolled in any grade kindergarten to grade 12.
- (2) Schools for kindergarten to grade 12 are not permitted on a premises that is identified as Prime Industrial Land in a *land use plan*.
- (3) Conditional use regulations. Schools for kindergarten to grade 12 are permitted as conditional uses in zones indicated by a “C” subject to the following:
- (A) The *applicant* shall provide a master development plan that includes the following;
- ~~(1)~~(i) The student capacity of the campus;
- ~~(2)~~(ii) The size, number, and location of all proposed facilities;
- ~~(3)~~(iii) The pedestrian and traffic circulation systems proposed for the site;
- ~~(4)~~(iv) A transportation and parking development program; and
- ~~(5)~~(v) A *development* phasing schedule.
- ~~(B)~~ The design of the *structures* shall incorporate architectural elements that help to diminish building bulk.
- ~~(C)~~ Larger *structures*, areas with high levels of activity, and parking areas shall be located on the site away from surrounding *development* that is smaller in scale or less intense.
- (D) Off-street parking shall be provided in accordance with Table 142-05G.

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(c) Colleges/Universities

- (1) Colleges and universities are facilities that provide post secondary education or higher in a campus setting where the campus typically has at least one of the following accessory activities or facilities: intercollegiate athletics, fraternities and sororities, student clubs, student unions, student dormitories, a campus library, or other campus facilities to accommodate a large assemblage of people.
- (2) Conditional use regulations. Colleges and universities are permitted as conditional uses in zones indicated by a "C" subject to the following:
 - (A) Colleges and universities are not permitted on a *premises* that is identified as Prime Industrial Lands in a *land use plan*, unless the primary emphasis of the college or university is the instruction of adults in subjects incidental to manufacturing and industrial uses.
 - (B) Colleges and universities are subject to the conditional use criteria applicable to schools for kindergarten to grade 12 in Section 141.0407(b)(3).
 - (C) Access to colleges and universities shall be as direct as possible from *freeways* and primary arterials and shall avoid residential *streets*.
- (3) Private colleges and universities that provide training and education in a traditional office building without any extracurricular facilities of a traditional post secondary educational facility are permitted by right where business and professional offices are permitted uses in zones indicated with a "P". However, this type of educational facility is not permitted on a *premises* that is identified as Prime Industrial Lands in a *land use plan*, unless the primary emphasis of the college or university is the instruction of adults in subjects incidental to manufacturing and industrial uses.

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- (e) Access to colleges and universities shall be as direct as possible from ~~freeways~~ and primary arterials and shall avoid residential ~~streets~~.
- (f) Off-street parking requirements for kindergarten through grade 12 are provided in Table 142-05F. Off-street parking for colleges and universities shall be provided to adequately serve the facility without causing parking impacts on surrounding property.
- (d) **Vocational and Trade Schools**
 - (1) Vocational schools are facilities that offer instruction and practical introductory experience in skilled trades such as mechanics, carpentry, plumbing, or construction with training that emphasizes the skills and knowledge needed for a particular job. Trade schools are facilities organized by an industry or a large corporation to provide training, apprentice education, and similar courses.
 - (2) Limited use regulations. Vocational schools and trade schools are permitted as limited uses in zones indicated by an “L” subject to the following:
 - (A) Vocational schools and trade schools are not permitted on a premises that is identified as Prime Industrial Lands in a land use plan, unless the primary emphasis of the school is the instruction of adults in subjects incidental to manufacturing and industrial uses.
 - (B) Off-street parking shall be provided in accordance with Table 142-05G.

Issue #23: Adult Entertainment Business License Transfers

§141.0601 Adult Entertainment Businesses

- (a) [No change.]

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- (b) Adult entertainment businesses are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.
 - (1) Adult entertainment businesses shall not be established, **or** enlarged, ~~or undergo a transfer of ownership or control~~ if the *structure* housing the business would be located within 1,000 feet of any of the following:
 - (A) Another *structure* housing an adult entertainment business;
 - (B) The *property line* of a residentially zoned property; or
 - (C) The *property line* of a church ~~except those established in accordance with Section 141.0404(a), a school, a public park, or a social service institution.~~
 - ~~(2) If a church other than one established in accordance with Section 141.0404(a), a school, a public park, a social service institution, or a residential zone is established within 1,000 feet of an adult entertainment business, the person possessing ownership or control of the adult entertainment business is permitted to transfer ownership or control within 2 years of the date on which the school begins a course of instruction for students, the church or social service institution is opened for use, the public park is dedicated, or the ordinance establishing the residential zone becomes effective. The person acquiring the ownership or control, however, shall be required to discontinue the adult entertainment business within 5 years from the date of the transfer of ownership or control if the business continues to be within 1,000 feet of the uses or properties listed in Section 141.0601(b)(1).~~
- ~~(3)~~ **(2)** [No change.]

Issue #24: Recycling Businesses

§141.0620 Recycling Facilities

- (d) Small Collection Facilities
 - (1) through (5) [No change.]
 - (6) Facilities that are not within a fully enclosed building shall be set back at least 10 feet from any building ~~or~~ **and from any** *public right-of-way*, and shall not obstruct pedestrian or vehicular circulation.

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Issue #25: Brush Management

§142.0412 Brush Management

(a) through (h) [No change]

- (i) In consideration of the topography, existing and potential fuel load, and other characteristics of the site related to fire protection, the Fire Chief may modify the requirements of this Section, and where applicable with the approval of the Building Official, may require building features for fire protection in addition to those required in accordance with Chapter 14, Article 5, Division 7 (Chapter 7A of the California Building Code as adopted and amended) if the following conditions exist An applicant may request approval of alternative compliance for brush management in accordance with Process One if all of the following conditions exist:
 - (1) In the written opinion of the Fire Chief, based upon a fire fuel load model report conducted by a certified fire behavior analyst, the requirements of Section 142.0412 fail to achieve the level of fire protection intended by the application of Zones One and Two; and The proposed alternative compliance provides sufficient defensible space between all structures on the premises and contiguous areas of native or naturalized vegetation as demonstrated to the satisfaction of the Fire Chief based on documentation that addresses the topography of the site, existing and potential fuel load, and other characteristics related to fire protection and the context of the proposed development.
 - (2) ~~The modification to the requirements achieves an equivalent level of fire protection as provided by Section 142.0412, other regulations of the Land Development Code, and the minimum standards contained in the Land Development Manual; and~~ The proposed alternative compliance minimizes impacts to undisturbed native or naturalized vegetation where possible while still meeting the purpose and intent of Section 142.0412 to reduce fire hazards around structures and provide an effective fire break.

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- (3) The ~~modification to the requirements~~ **proposed alternative compliance** is not detrimental to the public health, safety, and welfare of persons residing or working in the area.
- (j) If the Fire Chief approves a ~~modified plan~~ **alternative compliance** in accordance with this section ~~as part of the City's approval of a development permit~~, the modifications shall be recorded with the approved permit conditions **if approved as part of a development permit, or noted in the permit file if approved as part of a construction permit.**

Issue #26: Historic Resources: Site Survey Exemption for Roof Replacement In Kind

§143.0212 Need for Site Specific Survey and Determination of Location of Historical Resources

- (a) The City Manager shall determine the need for a site-specific survey for the purposes of obtaining a *construction permit* or *development permit* for *development* proposed for any parcel containing a *structure* that is 45 or more years old and not located within any area identified as exempt in the Historical Resources Guidelines of the Land Development Manual or for any parcel identified as sensitive on the Historical Resource Sensitivity Maps.
 - (1) Interior *development* and any modifications or repairs that are limited in scope to an electrical or plumbing/mechanical permit shall be exempt from the requirement to obtain a site specific survey prior to approval of the applicable *construction permit* where the *development* would **not** include ~~no a~~ **a** change to the exterior of existing *structures*.
 - (2) **In kind roof repair and replacement shall be exempt from the requirement to obtain a site specific survey prior to approval of the applicable construction permit.**

(b) through (d) [No change in text.]

Issue #27: Historic Resources: Archaeological Resource Buffer

§143.0220 Development Exempted from the Requirement to Obtain a Development Permit for Historical Resources

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The following *development* activities are exempt from the requirement to obtain a Neighborhood Development Permit or Site Development Permit. However, in all cases a *construction permit* is required.

(a) through (c) [No change.]

(d) Any *development* on a parcel that has an *important archaeological site* and will not result in substantial alteration, demolition, destruction, removal, relocation, or *encroachment* into such resources during or after construction, subject to the following requirements.

(1) All feasible measures to protect and preserve the resource shall be included in the *development*.

~~(2) A 100 foot buffer measured from the edge of the *important archaeological site* shall be provided.~~

~~(3)~~(2) All documentation necessary to verify consistency with this subsection shall be provided by the *applicant* consistent with the Historical Resources Guidelines of the Land Development Manual.

~~(4)~~(3) The property owner shall sign an acknowledgment that no further *development* can occur on the property unless the *development* is reviewed and approved in accordance with this division.

Issue #28: Lot Tie Agreements

§113.0237 Determining a Lot

(a) A *lot* is legal for purposes of *development* if it meets any one of the following criteria:

(1) through (3) [No change.]

(4) The ~~lot~~ *lot* was created before March 4, 1972, held as a separate parcel by a subsequent purchaser, and has at least 15 feet of street frontage or other legal access to a dedicated street as approved by the City Engineer; or

(5) The *lot* was held as a separate legal parcel upon annexation to the City of San Diego; ~~or~~

~~(6) The *lot* consists of two or more parcels held by a single *record owner* that otherwise meet the requirements of Section 113.0237(a)(1), that are tied together~~

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through a recorded lot tie agreement between the *record owner* and the City in accordance with Section 129.0120.

(b) through (c) [No change.]

§129.0120 Lot Tie Agreements

- (a) If a *lot* consists of two or more parcels held by a single *record owner* as set forth in Section 113.0237(a)(6), *construction permits* shall not be issued unless a Lot Tie Agreement is entered into to the satisfaction of the Building Official and the City Engineer and recorded against the applicable properties in the Office of the San Diego County Recorder. The Lot Tie Agreement shall require the *record owner* to hold the applicable parcels as one and to maintain common ownership and control. The Lot Tie Agreement shall be binding upon, and the benefits of the agreement shall inure to the parties and all successors in interest to the parties to the Lot Tie Agreement.
- (b) Cancellation of a recorded Lot Tie Agreement shall be reviewed and approved by the City Engineer and Building Official in accordance with Process One if the need to hold the property as one parcel no longer exists. If approved, the City shall forward a written declaration of the cancellation of the Lot Tie Agreement to the County Recorder.

Issue #29: Variable Setbacks

§131.0431 Development Regulations Table of Residential Zones

The following development regulations apply in the residential zones as shown in the Table 131-04C, 131-04D, 131-04E, 131-04F and 131-04G.

- (a) [See Issue #48 Minor Correction: Resubdivided Corner Lots.]
- (b) RS Zones

Table 131-04D
Development Regulations of RS Zones

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	Zones
	1st & 2nd >>	RS-

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	3rd >>	1-	1-	1-	1-	1-	1-	1-
	4th >>	1	2	3	4	5	6	7
Max permitted density (DU per lot)		1	1	1	1	1	1	1
Min lot area (sf)		40,000	20,000	15,000	10,000	8,000	6,000	5,000
Min lot dimensions								
Lot width (ft)		100	80	75	65	60	60	50
Street frontage (ft) [See Section 131.0442(a)]		100	80	75	65	60	60	50
Lot width (corner) (ft)		110	85	80	70	65	65	55
Lot depth (ft)		100	100	100	100	100	95	95
Setback requirements								
Min Front setback (ft)		25 ⁽¹⁾	25 ⁽¹⁾	20 ⁽¹⁾	20 ⁽¹⁾	20 ⁽¹⁾	15 ⁽¹⁾	15 ⁽¹⁾
Min Side setback (ft) [Multiply number in table by actual lot width to calculate setback]		.08 ⁽²⁾	.08 ⁽²⁾	.08 ⁽²⁾	.08 ⁽²⁾	.08 ⁽²⁾	.08 ⁽²⁾	.08 ⁽²⁾
Min Street side setback (ft) [Multiply number in table by actual lot width to calculate setback]		.10 ⁽²⁾	.10 ⁽²⁾	.10 ⁽²⁾	.10 ⁽²⁾	.10 ⁽²⁾	.10 ⁽²⁾	.10 ⁽²⁾
Min Rear setback (ft)		25 ⁽³⁾	25 ⁽³⁾	20 ⁽³⁾	20 ⁽³⁾	20 ⁽³⁾	15 ⁽³⁾	13 ⁽³⁾

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	Zones						
	1st & 2nd >>	RS-						
	3rd >>	1-	1-	1-	1-	1-	1-	1-
	4th >>	1	2	3	4	5	6	7
Lot coverage for sloping lots [See Section 131.0445(a)]		applies	applies	applies	applies	applies	applies	applies
Max floor area ratio		0.45	varies ⁽⁵⁾	varies ⁽⁵⁾	varies ⁽⁵⁾	varies ⁽⁵⁾	varies ⁽⁵⁾	varies ⁽⁵⁾
Max paving/ hardscape [See Section 131.0447]		applies	applies	applies	applies	applies	applies	applies
Accessory uses and structures [See Sections 131.0448 and 141.0306]]		applies	applies	applies	applies	applies	applies	applies

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Garage regulations [See Section 131.0449(a)]	applies	applies	applies	applies	applies	applies	applies
Building spacing [See Section 131.0450]	applies	applies	applies	applies	applies	applies	applies
Max third story dimensions [See Section 131.0460]	--	applies	applies	applies	applies	applies	applies
Architectural projections and encroachments [See Section 131.0461(a)]	applies	applies	applies	applies	applies	applies	applies
Supplemental requirements [See Section 131.0464(a)]	applies	applies	applies	applies	applies	applies	applies
Bedroom regulation	applies ⁽⁷⁾	applies ⁽⁷⁾	applies ⁽⁷⁾	applies ⁽⁷⁾	applies ⁽⁷⁾	applies ⁽⁷⁾	applies ⁽⁷⁾
Refuse and Recyclable Material Storage [See Section 142.0805]	applies	applies	applies	applies	applies	applies	Applies

Development Regulations [See Section 131.0430 for Development Regulations of Residential Zones]	Zone Designator	Zones						
	1 st & 2nd >>	RS-						
	3rd >>	1-	1-	1-	1-	1-	1-	1-
	4th >>	8	9	10	11	12	13	14
Max permitted density (DU per lot)		1	1	1	1	1	1	1
Min lot area (sf)		40,000	20,000	15,000	10,000	8,000	6,000	5,000
Min lot dimensions								
Lot width (ft)		100	80	75	65	60	60	50
street frontage (ft) [See Section 131.0442(a)]		100	80	75	65	60	60	50
Lot width (corner) (ft)		110	85	80	70	65	65	55
Lot depth (ft)		100	100	100	100	100	95	95
Setback requirements								
Min Front setback (ft)		25 ⁽¹⁾	25 ⁽¹⁾	25 ⁽¹⁾	20 ⁽¹⁾	15 ⁽¹⁾	15 ⁽¹⁾	15 ⁽¹⁾
Min Side setback (ft)		10	8	7	6	5	5	4
Min Street side setback (ft)		20	15	15	10	10	10	10
Min Rear setback (ft)		10 ⁽⁶⁾	10 ⁽⁶⁾	10 ⁽⁶⁾	10 ⁽⁶⁾	10 ⁽⁶⁾	10 ⁽⁶⁾	10 ⁽⁶⁾
Setback requirements for resubdivided corner lots [See Section 131.0443(i)]		applies	applies	applies	applies	applies	applies	Applies

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Max structure height (ft)	35	35	35	35	35	35	35
Lot coverage for sloping lots [See Section 131.0445(a)]	-	-	-	-	-	-	-
Max floor area ratio [See Section 131.0446(b)]	0.45	0.60	0.60	0.60	0.60	0.60	0.60
Max paving/ hardscape [See Section 131.0447]	applies	applies	applies	applies	applies	applies	applies
Accessory uses and structures [See Sections 131.0448 and 141.0306]	applies	applies	applies	applies	applies	applies	applies
Garage regulations [See Section 131.0449(a)]	applies	applies	applies	applies	applies	applies	applies
Building spacing [See Section 131.0450]	applies	applies	applies	applies	applies	applies	applies
Max third story dimensions	-	-	-	-	-	-	-
Architectural projections and encroachments [See Section 131.0461(a)]	applies	applies	applies	applies	applies	applies	applies
Supplemental requirements [See Section 131.0464(a)]	applies	applies	applies	applies	applies	applies	applies
Diagonal plan dimension							
Bedroom regulation	applies ⁽⁷⁾	applies ⁽⁷⁾	applies ⁽⁷⁾	applies ⁽⁷⁾	applies ⁽⁷⁾	applies ⁽⁷⁾	applies ⁽⁷⁾
Refuse and Recyclable Material Storage [See Section 142.0805]	applies	applies	applies	applies	applies	applies	Applies

Footnotes for Table 131-04D

- 1 [No change.]
- 2 The For lots greater than 50 feet in width, the required side setbacks may be reallocated where the combined dimension of each side setback would meet or exceed the combined total required in Table 131-04D: ~~A~~ in which case side setbacks shall not be reduced to less than 4 feet, and street side setbacks shall not be reduced to less than 10 feet. Once a side setback is reallocated and established at a dimension less than the percentage indicated in Table 131-04D, all additions to the primary structure thereafter shall maintain the established side setback.
- 3 through 7 [No change.]

(c) through (e) [No change.]

Issue #30: Architectural Projections and Encroachments

§131.0461 Architectural Projections and Encroachments in Residential Zones

- (a) The following are permitted *architectural projections* and *encroachments* into required yards and the angled *building envelope* plane for RS and RX zones and the RM-1-1, RM-1-2, and RM-1-3 zones. These projections and *encroachments* are not

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permitted in the required yards within view corridors that are designated by *land use plans* in the Coastal Overlay Zone and may not be located in a required *visibility area* or a required turning radius or vehicle back-up area except where development regulations may allow.

(1) through (11) [No change.]

(12) ~~Detached garages~~ **Garages** or non-habitable *accessory buildings* may encroach into a required side or rear yard as follows:

(A) [No change.]

(B) The **encroaching** *accessory building* shall be limited to ~~one story~~ and a maximum ~~structure height~~ **height** of 15 feet **within the setback**. **Any development attached to the accessory building above one story shall comply with the setback;** and

(C) [No change.]

(D) ~~The cumulative area of all~~ **An** encroaching *accessory buildings* shall not exceed 525 square feet in *gross floor area*.

(b) [No change.]

(c) In the RM-2-4, RM-2-5, RM-2-6, RM-3-7, RM-3-8, RM-3-9, RM-4-10, RM-4-11, and RM-5-12 zones, ~~architectural~~ **architectural projections and encroachments** listed in Section 131.0461(a) are permitted with the following limitations. No permitted projection or *encroachment* may be located in required yards within view corridors that are designated by land use plans in the Coastal Overlay Zone or in a required *visibility area* or a required turning radius or vehicle back-up area except where development regulations may allow.

- (1) For front and rear yards, one *encroachment* is permitted per 50 feet of *building facade* length, with a minimum of 10 feet between *encroachments*.
- (2) For side yards, two *encroachments* are permitted per 50 feet of *building facade* length, with a minimum of 10 feet between *encroachments*.
- (3) A minimum of 3 feet must be provided between the *encroachment* and the *property line*.

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- (4) Garages or non-habitable *accessory buildings* that meet the requirements in Section 131.0461(a)(12)(A) - (D) may only encroach into a required side or rear yard only if they are detached.

- ~~(4)~~(5) *Dormers* may project into the angled *building envelope* plane as follows:
(A) through (B) [No change.]

§141.0306 Guest Quarters or Habitable Accessory Buildings

- (a) through (f) [No change.]

- ~~(g)~~ ~~For detached guest quarters or habitable *accessory buildings*, the maximum structure height is 15 feet without a chimney or flue, or 17 feet with a chimney or flue.~~

- ~~(h)~~(g) Decks and staircases of not more than 3 feet in height may encroach into required yards.

- ~~(i)~~(h) *Roof decks*, including railings, shall not exceed the height limits in Section 141.0306(f) ~~and (g)~~.

- ~~(j)~~(i) Occupancy of a *premises* containing guest quarters or habitable *accessory buildings* shall be subject to the following:
(1) through (3) [No change.]

Issue #31: Setbacks for Commercial-Neighborhood Zones Abutting Residential

§131.0543 Setback Requirements for Commercial Zones

Setback requirements are specified in Tables 131-05C, 131-05D, and 131-05E and are subject to the following exceptions and additional regulations:

- (a) [No change.]

- (b) Minimum Side and Rear *Setback*

- (1) In zones that require a 10-foot minimum side or rear *setback* and provide the option for no side or rear *setbacks* as shown in Tables 131-05C, 131-05D, and 131-05E, the *structure* shall either be placed at the *property line* or shall be set back at least 10 feet.

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- (2) The optional side or rear setback is not applicable to commercial *development* abutting low density residentially zoned properties as further described in Section 131.0543(c).

(c) Commercial *Development* Abutting Residentially Zoned Properties

- (1) Commercial *development* abutting low density residentially zoned properties with a permitted density of less than 15 dwelling units per acre shall provide a 10-foot minimum *setback* for any side or rear *yard* that abuts low density residential zoned property. The *structure* shall comply with additional step back requirements in accordance with Section 131.0543(c)(3).

- (2) Commercial *development* abutting medium to high density residentially zoned properties with a permitted density of 15 dwelling units or more per acre that provide no side or rear *setback* and locate the structure at the *property line* as provided for by Section 131.0543(b) shall comply with the following:

- (A) ~~The minimum side *setback*~~ Minimum step back for *structures* placed at the side *property line* ~~is as follows.~~

- (i) Any portion of the *structure* exceeding 15 feet in height shall be stepped back from the side *property line* 10 feet, or 10 percent of the lot width but not less than 5 feet, whichever is less.
- (ii) Each 15 feet in height above 30 feet shall be stepped back at least 3 feet from the minimum *setback* of that portion of the *structure* immediately below.

- (B) ~~Minimum rear *setback*~~ step back for *structures* placed at the rear *property line* ~~is as follows.~~

- (i) Any portion of the *structure* exceeding 15 feet in height shall be stepped back from the rear *property line* 10 feet, or 10 percent of the lot depth but not less than 5 feet, whichever is less.
- (ii) Each 15 feet in height above 30 feet shall be stepped back at least 3 feet from the minimum *setback* of that portion of the *structure* immediately below.

- (3) For side and rear *yards*, if the *structure* is set back 10 feet or more from the *property line*, each 15 feet in height above 30 feet shall be stepped back at least 3 feet from the minimum *setback* of that portion of the *structure* immediately below.

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Issue #32: Residential Tandem Parking Overlay Zone/Transit Area Overlay Zone

§126.0402 When a Neighborhood Development Permit Is Required

(a) through (l) [No change in text.]

(m) [See Issue #14 Lower Process for Wireless Communication Facility Equipment Enclosures]

(n) **A Neighborhood Development Permit is required for *development* proposing to count tandem parking spaces as two parking spaces towards the off-street parking requirement as described in Section 132.0905(a)(5).**

§132.0902 Where the Residential Tandem Parking Overlay Zone Applies

(a) This overlay zone applies to property ~~located outside the boundaries shown on Map No. C-908 (Coastal Overlay Zone) and within the boundaries shown on Map No. C-922 filed in the office of the City Clerk under Document No. OO-19288. These areas are shown generally on Diagrams 132-04A and 132-09A and should be viewed together.~~

~~(b) This overlay zone applies to property located within the boundaries shown on Map No. C-908 (Coastal Overlay Zone) and Map No. C-903 filed in the office of the City Clerk under Document No.'s OO-18872 and OO-18911-1 respectively. These areas are shown generally on Diagrams 132-04A and 132-09B and should be viewed together.~~

(b) **Table 132-09A shows the sections that contain the supplemental regulations for specific types of *development* proposals in this overlay zone.**

Table 132-09A Residential Tandem Parking Overlay Zone Applicability [No change.]

Diagram 132-09A [Relocate from Section 132.0905 to follow Table 132-09A.]

§132.0905 Supplemental Development Regulations of the Residential Tandem Parking Overlay Zone

(a) Tandem parking may be counted as two parking spaces toward the off-street parking required by Chapter 14, Article 2, Division 5 (Parking Regulations) only in the following locations and circumstances:

- (1) In the Golden Hill Community Plan area, the La Jolla Community Plan area, the Mission Beach Precise Plan area, the Mission Valley Community Plan area, the Uptown Community Plan area, ~~and all community plan areas in Council District 5,~~ **the Mira Mesa Community Plan area, the Scripps Miramar Ranch Community**

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Plan area, the Miramar Ranch North Community Plan area, the Sabre Springs Community Plan area, the Carmel Mountain Ranch Community Plan area, the Rancho Bernardo Community Plan area, and the San Pasqual Community Plan area.

- (2) In the City Heights neighborhood of the Mid-City Community Plan Area only for *structures* with one or two dwelling units.

~~Diagram 132-09A~~ [Relocate Diagram 132-09A to Section 132.0902 to follow Table 132-09A.]

Delete Diagram 132-09B

- (3) If at least 25 percent of the project area is located within the Transit Area Overlay Zone as shown in Diagram 132-10A and the project area is not located in the Greater North Park Community Plan area, the Pacific Beach Community Plan area, the Southeast San Diego Community Plan area, the Skyline/Paradise Hills Community Plan Area, or the Mid-City Communities Plan area other than the City Heights neighborhood.
- (4) Within the beach impact area of the Parking Impact Area Overlay Zone where access is provided to the tandem space from an abutting *alley*.

- (5) If a Neighborhood Development Permit is granted in accordance with Section 126.0402 to count tandem parking as two parking spaces toward the off-street parking requirement in any location not provided for in Section 132.0905(a) (1)-(4).**

- (b) At least one of the two parking spaces shall be within a completely enclosed *structure*.
- (c) Both of the tandem spaces shall be assigned to the same dwelling unit.
- (d) The tandem parking spaces shall be assigned, and the use restrictions shall be enforced, by the owner of the *premises* or the owner's assigned representative.

§132.1002 Where the Transit Area Overlay Zone Applies

- (a) This overlay zone applies to property ~~located outside the boundaries shown on Map No. C-908 (Coastal Overlay Zone) and within the boundaries shown on Map No. C-921, filed in the office of the City Clerk as Document No. OO-19287-2. These areas are~~ **is** shown generally on Diagrams 132-04A and 132-10A and should be viewed together.
- ~~(b) This overlay zone applies to property located within both the boundaries shown on Map No. C-908 (Coastal Overlay Zone) and Map No. C-900, filed in the office of the City~~

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~~Clerk under Document Nos. OO 18872 and OO 18911-2, respectively. These areas are shown generally on Diagrams 132-04A and 132-10B and should be viewed together.~~

- (b) **Table 132-10A shows the sections that contain the supplemental regulations for specific types of development proposals in this overlay zone.**

Table 132-10A Transit Area Overlay Zone Applicability [No change.]

Diagram 132-10A [No change.]

Delete Diagram 132-10B

Issue #33: Parking Impact Overlay Zone

§132.0801 Purpose of the Parking Impact Overlay Zone

The purpose of the Parking Impact Overlay Zone is to provide supplemental parking regulations for specified coastal, beach, and campus areas that have parking impacts. The intent of this overlay zone is to identify areas of high parking demand and increase the off-street parking requirements accordingly.

§132.0802 Where the Parking Impact Overlay Zone Applies

- (a) This overlay zone applies to property located within the beach impact area, **and** the campus impact area, **and the coastal impact area** as shown on Map Nos. C-731 and C-795, filed in the office of the City Clerk. These areas are shown generally on Diagram 132-08A.
- (b) [No change.]

Table 132-08A [No change.]

Modify Diagram 132-08A to correct the existing reference to “coastal impact area boundary” to instead indicate “approximate coastal zone boundary- for reference only”

Issue #34: Modify Parking Exception for Commercial Uses on Small Lots

§142.0540 Exceptions to Parking Regulations for Nonresidential Uses

- (a) Commercial Uses on Small Lots. Outside the beach impact area of the Parking Impact Overlay Zone, for *lots* that are ~~7,000~~ **10,000** square feet or less, that existed before January 1, 2000, ~~including abutting lots under~~

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~~common ownership~~, the parking requirements set forth in Table 142-05H may be applied to all commercial uses at the option of the *applicant* as an alternative to the requirements set forth in Section 142.0530. The type of access listed in Table 142-05G determines the minimum number of required *off-street parking spaces*.

Table 142-05H
Alternative Parking Requirement for
Commercial Uses on Small Lots

Type of Access	Minimum Number of Parking Spaces
With <i>Alley</i> Access ⁽¹⁾	1 space per 10 feet of <i>alley</i> frontage, minus one space
Without <i>Alley</i> Access	none required

Footnote to Table 142-05G

¹ The City Engineer will determine whether a *lot* has adequate *alley* access according to accepted engineering practices.

(b) through (c) [No change.]

Issue #35: Lower Process for Shared Parking based on Alternative Studies

§142.0545 Shared Parking Requirements

- (a) Approval Criteria. In all zones except single unit residential zones, *shared parking* may be approved through a Building Permit subject to the following requirements.
 - (1) *Shared parking* requests shall be for two or more different land uses located adjacent or near to one another, subject to the standards in this section.
 - (2) All *shared parking* facilities shall be located within a 600-foot horizontal distance of the uses served.

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- (3) Parties involved in the shared use of a parking facility shall provide an agreement for the shared use in a form that is acceptable to the City Attorney.
 - (4) *Shared parking* facilities shall provide *signs* on the *premises* indicating the availability of the facility for patrons of the participating uses.
 - (5) Modifications to the *structure* in which the uses are located or changes in tenant occupancy require review by the City Manager for compliance with this section.
- (b) Shared Parking Formula. *Shared parking* is based upon the variations in the number of parking spaces needed (parking demand) over the course of the day for each of the proposed uses. The hour in which the highest number of parking spaces is needed (peak parking demand) for the proposed *development*, based upon the standards in this section, determines the minimum number of required *off-street parking spaces* for the proposed *development*.
- (1) through (6) [No change in text.]
- (7) ~~Uses for which standards are not~~ The applicant may request approval of *shared parking* based on the latest Urban Land Institute Parking Study or equivalent study as an alternative to the parking demand rates provided in Tables 142-05I and 142-05J, ~~may nevertheless provide *shared parking* with the approval of a Neighborhood Development Permit, provided that if the applicant shows~~ provides evidence to the satisfaction of the City Engineer that the standards used for the proposed *development* result in an accurate representation of alternative parking demand rates more accurately represent the parking demand and peak parking demand for the development.
- (c) through (d) [No change.]

Issue #36: Irrigation Controllers for Non-Residential Development

§142.0402 When Landscape Regulations Apply

Add row to Table 142-04A to identify that commercial development with at least 1000 square feet of landscape area is subject to Section 142.0413

§142.0413 Water Conservation

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- (a) Landscape Area. For the purposes of Section 142.0413, landscape area means the entire *premises*, less the area of building footprints, non-irrigated portions of parking lots, driveways, *hardscapes*, and areas designated for habitat preservation or brush management Zone Two.
- (b) through (e) [No change]
- (f) Irrigation Controllers. New commercial development, including additions to existing commercial development, that involves a landscape area of 1,000 to 2,500 square feet shall install irrigation controllers that are weather or soil moisture based if potable water is being used for the irrigation.
- (g) Irrigation Audit. An *applicant* subject to the requirement for a water budget in Table 142-04I is required to conduct and submit to the City an irrigation audit consistent with Section 2.7 of the Landscape Standards of the Land Development Manual.
 - (1) through (2) [No change]
- (h) Reclaimed water. New *development* in areas where reclaimed water is available and suitable for irrigation shall provide for a dual water distribution system for all landscaped areas. Only reclaimed water shall be used for irrigation purposes where it is available.

Issue #37: Parking for Zero Emissions Vehicles, Carpools, and Bicycles

§142.0530 Nonresidential Uses — Parking Ratios

- (a) through (c) [No change except in Table 142-05F the title of the carpool space column should be changed to “Zero Emissions Vehicles/Carpool Spaces”]
- (d) Zero Emissions Vehicles and Carpool Spaces
 - (1) Required ~~carpool~~ parking spaces for certified zero emissions vehicles (100 percent battery electric and hydrogen fuel cell) and carpool vehicles (vehicles containing two or more persons) are to shall be provided at the ratio set forth in Table 142-05G for specified non-residential uses and shall be included within the overall minimum parking requirement, not in addition to it.
 - (2) ~~Carpool~~ Required spaces for certified zero emissions vehicles and carpool vehicles shall be clearly labeled as designated for any combination of certified zero emissions vehicles or carpool vehicles, and shall be conveniently located close to employee entrances.

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- (3) If there is a charge for parking, ~~carpool~~ spaces for certified zero emissions vehicles and carpool vehicles shall be offered at a discount ~~for vehicles containing two or more persons.~~
- (e) Bicycle Facilities
- (1) Required bicycle parking spaces shall be provided at the ratio set forth in Tables 142-05C, 142-05D, 142-05E, and 142-05F. The minimum number of required bicycle parking spaces is two. ~~(2) The maximum number of required bicycle parking spaces is 25. These spaces can be accommodated with racks for 25 bicycle spaces or racks for 12 spaces and 12 bicycle lockers if lockers are also required.~~
- (2) Where bicycle parking is required for non-residential development, bicycle racks shall be conveniently located.
- (3) Where long term parking and shower facilities are required for non-residential development, at least one secure bicycle space shall be provided.
- ~~(3)~~ (4) The following uses are exempt from the bicycle facilities requirement:
- Cemeteries, mausoleums, crematories;
 - Maintenance and repair uses;
 - Boarding kennels;
 - Pet grooming services;
 - Veterinary clinics and hospitals;
 - Vehicle and vehicular equipment sales and service uses; and
 - Mining and extractive industries
- (f) through (h) [No change]

Issue #38: Southeastern San Diego PDO- Companion Units and Guest Quarters

Article 19: Southeastern San Diego Planned District
Appendix A: Uses

Legend: P = Permitted
- = Not Permitted
L = subject to Limitations
SP = Special Permit
Special Permit for Alcohol Sales and Distribution - See Appendix C

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Permitted Uses	Residential Zones		Commercial Zones			Industrial Zones	
	SF	MF	1	2	3	I-1	I-2
Residential							
Single Family Dwelling	P	P	-	-	-	-	-
Two-Family Dwelling	-	P	-	-	-	-	-
Apartment Houses (No Temporary Residence)	-	P	-	-	-	-	-
Boarding and Lodging Houses (Not a Residential-Care Facility)	-	P	-	-	-	-	-
Child Day Care Center	SP	SP	SP	SP	-	-	-
Churches, Temples or Buildings of a Permanent Nature Used for Religious Purposes	SP	SP	SP	SP	SP	-	-
Companion Units	SP <u>PL⁽⁸⁾</u>	P <u>PL⁽⁸⁾</u>	-	-	-	-	-
Elderly or Handicapped Housing	-	SP	-	-	-	-	-
Fraternities, Sororities	-	SP	-	-	-	-	-
Guest Quarters	SP <u>PL⁽⁹⁾</u>	P <u>PL⁽⁹⁾</u>	-	-	-	-	-
[No change to remainder of Appendix A:Uses Table.]							

Footnotes for Appendix A: Uses

1 through 7 [No change.]

8 Companion units shall be permitted in accordance with Land Development Code Section 141.0302.

9 Guest quarters shall be permitted in accordance with Land Development Code Section 141.0306.